

Mr. Speaker, I would like to inform members of the House that early next week, I will be introducing a Bill designed to regulate collective bargaining between teachers and school boards in Ontario.

Under ordinary circumstances, there would be no need for me to report to the Legislature prematurely in this way. However, the article in this morning's Globe and Mail concerning certain details of the proposed legislation compels me to do so at this time.

Consultation on final details

Yesterday, in keeping with a personal commitment that I made some time ago, I met in private meetings with representatives of the Ontario Teachers' Federation, the Ontario School Trustees' Council and the Ontario Association of Education Administrative Officials. Representatives of the various organizations signed for, received and returned draft copies of the proposed legislation.

The purpose of the meetings was to discuss the proposed provisions of the bill and to solicit constructive suggestions for improvement before every detail was finalized.

I believe that this kind of consultative process is a good practice for governments to follow. Yesterday, however, before this process was completed, a copy of the draft Bill was taken from a meeting room in which representatives were examining it, and this morning's article is the direct result.

I am disappointed, naturally, that the process of responsible consultation on the details of the legislation has led to this news item reaching the public before I was able to present the Bill to the Legislature.

In any event, Mr. Speaker, I feel that I should now provide members with further details and background on the Bill which we intend to introduce next week.

This Bill has admittedly been a long time in the preparation. We have considered the ideas of many groups and individuals, and examined in detail virtually every piece of legislation covering this field that exists in other Canadian Provinces and in many parts of United States.

I shall be very proud to introduce this Bill next week. Compared to labour legislation in general in North America, it is innovative and progressive. Compared to teacher-school board bargaining legislation in particular, I sincerely believe that it will set patterns that others will follow in the interests of improved relationships between teachers and their employing school boards.

Ground rules for orderly bargaining

Mr. Speaker, the over-riding objectives of this Bill are to lay down fair and workable ground rules for orderly collective bargaining between teachers and school boards, and to lay the foundation for successful negotiations by reasonable people bargaining in good faith.

I believe that this Bill achieves these objectives. In a clear step-by-step manner, it outlines procedures to regulate the bargaining process. It provides innovative measures to avoid bargaining impasses, it offers practical alternatives to confrontation at every step, and it recognizes clearly the realities of collective bargaining in the field of education.

I believe that, once this legislation takes effect and its provisions become operative in the bargaining process, we in Ontario will see more order in a situation that has been somewhat chaotic and unsettled in the last two or three years.

New Education Relations Commission

Certainly one of the most innovative and far-reaching provisions of the Bill is the establishment of a new non-partisan independent body, to be called the Education Relations Commission, to monitor and assist all local negotiations between teachers and school boards.

Mainly this will be an advisory body, consisting of five impartial persons backed up by a small staff of experts in areas like negotiations, finance and education policy. It will have an expert overview of the progress of negotiations across the Province, with a responsibility to ensure that bargaining is being carried out in good faith and to provide assistance when asked or when it deems necessary.

The Commission will compile statistical information on subjects normally discussed in negotiations, such as professional activities and salaries of teachers. It will also select and train persons who may act as mediators, fact-finders and arbitrators.

The Education Relations Commission will play a vital role in ensuring knowledgeable, responsible and harmonious negotiations in Ontario education. It will act on behalf of not only teachers and school trustees, but even more importantly on behalf of students and parents who are not directly represented in bargaining.

In other words, the Commission is very much a body that will serve the public interest in tangible and effective ways.

Clear guidelines and procedures

Mr. Speaker, this Bill lays down clear guidelines and procedures that should ensure the orderly conduct of negotiations. The following points deserve particular mention at this time:

(1) Negotiations will continue to be at the local level between teachers and trustees. Either party can obtain bargaining advice or assistance from outside sources.

(2) In January, either party can serve notice that it wishes to begin negotiations, leaving seven months to negotiate a new agreement.

(3) All agreements must take effect on September 1 and expire on August 31, and may be for one or more years.

(4) The scope of negotiations will cover any term or condition of employment put forward by either party, except for a certain limited number of items such as pensions.

(5) Every agreement must include a grievance procedure to resolve disputes that may arise during the life of an agreement.

(6) At any time during negotiations, teachers and trustees may ask the Education Relations Commission to send in a mediator or a fact-finder, or to refer the outstanding issues to voluntary binding arbitration or to Final Offer Selection.

Final Offer Selection

The creation of the option of Final Offer Selection is one of the innovative highlights of the Bill. It is a form of voluntary binding arbitration which has recently been used successfully in Ontario and elsewhere, and to our knowledge this is the first time that it has been specifically provided for in legislation anywhere in Canada.

Fact-finding process

Equally innovative and important is the creation of the fact-finding process. A fact-finder is an impartial person

assigned by the Education Relations Commission when negotiations between a board and its teachers are at or near an impasse. His job is to investigate both sides of the dispute, and to write a report that will expose any extreme or unrealistic positions on the part of trustees or teachers. The report is made public if no agreement has been reached within 15 days after it has been submitted.

Mr. Speaker, of all the difficult philosophical and practical decisions that had to be made in connection with this Bill, the most difficult was the question of what ought to be done if a stalemate continued to exist between a school board and its teachers, even after all of the detailed procedures governing negotiations contained in the Bill had been exhausted.

Difficult question of teacher strikes

In recent years, legislators almost everywhere have been attempting to face the question of strikes by teachers. While we found it interesting to compare notes with others pondering the same questions, in the final analysis we came to our own conclusions on what is in the best interests of all of the people in our Province and, in particular, our own education system.

The whole question of teacher strikes is a many-sided and complex issue, not given to easy answers and glib solutions.

On the one hand, it is obvious that strikes in any segments of society, and particularly in the public sector, are unpleasant to many people, and perhaps are becoming more so. They are no more popular with those who participate in them than they are with those who are inconvenienced by them.

More than the disruption, inconvenience and uncertainty caused by teacher strikes, we as a Government have had to face the reality of a growing public mood that appears, at least in a general way, to be anti-strike.

In a day when inflation and unsettled economic conditions are straining traditional labour-management relationships in many fields, including education, we are all too aware of the deepening concern over what appears to be a pattern of more and more strikes causing public and economic disruption.

Agreement on strike issue

On the other hand, we have at the same time had to consider a remarkable unanimity on the part of employer and employee groups—in this case, school trustee and teacher organizations—over the strike issue.

Recent events have shown that the question of whether strike rights for teachers exist in Ontario is, to say the least, obscure. Official Provincial organizations of school trustees and teachers in Ontario have been of common accord, however, that such a right should exist.

Both the Ontario School Trustees' Council and the Ontario Teachers' Federation have endorsed this position in official briefs presented to the Government.

We have faced the teacher-strike question, and have considered all of the alternatives. In particular, we have given serious consideration to the concept of defining teaching as an essential public service, and denying the right of teachers to strike on this basis.

We came to the conclusion that, while this clearly would have been the politically-expedient course of action, in the short run, it would not have been the responsible route.

Over the past year, we have looked extensively at juris-

ditions elsewhere in North America where Governments have attempted to control collective bargaining in education to the extent of banning strikes. We have found that it is not realistic to believe that strike-prohibiting legislation solves most of the problems, or leads to acceptable wage settlements and harmony—or even to believe that it eliminates strikes altogether.

We found much evidence that restrictive legislation of this sort often leads to more disruption and continuing problems than it prevents. Rather than eliminating confrontation, it magnifies and expands it.

We in Ontario have worked long and hard, and invested a great deal of money and human effort, to develop a high-quality school system that is considered by most knowledgeable people to be one of the finest anywhere. We do not believe that quality in education can be maintained and improved in an atmosphere of confrontation.

Strikes not illegal

Thus, the Bill which we will be introducing does not make it illegal for teachers to strike.

It does, however, make the route to strike action considerably more difficult than at present. At every step in the bargaining process, it provides realistic alternatives to a strike. Diversions and deterrents stand in the way of hasty or irresponsible strike action. While lock-out provisions for school boards are also included, the same deterrents to their use will apply.

We make no claim that teacher strikes will be eliminated by this Bill. But its mandatory and optional provisions will place a greater onus upon individual teachers and school board members to make conscious and responsible personal decisions before deciding to take drastic action leading to a strike.

Procedures prior to strike

The Bill strictly regulates events leading to a strike, with the specific intention of attempting to avert a strike right up until the last minute:

—No strike, lock-out, or other form of sanction, is allowed during the life of an agreement.

—No strike or lock-out is allowed until after a fact-finder has examined both sides of the dispute, and his report has been made public so that everyone can be informed about the issues. Even after the fact-finder's report has been submitted, there is a further cooling-out period of 30 days.

—No strike is allowed until after teachers have specifically voted on this action by secret ballot supervised by the Education Relations Commission.

It should be noted, Mr. Speaker, that in the light of these reasonable procedures, we will not condone illegal strikes. In fact, the bill will contain provisions for stiff fines for those who take illegal action.

Furthermore, if a strike does occur, it will be the clear responsibility of the Education Relations Commission to advise the Government if it believes that a continuation of the strike will jeopardize the successful completion of the school year by the students affected by the strike.

The Government has no intention of allowing this legislation to be used to cause a major disruption in the education of pupils. It is our public responsibility to retain the right to take specific action, including legislative action if necessary, should serious disruptions of educational service occur. We have that responsibility and we will not shirk it.

Management rights

Mr. Speaker, I would like to say a final word about how this Bill specifically affects school boards in the bargaining process. There has been a great deal of discussion about the "management rights" of school boards, and what is often called autonomy in education. We have considered these matters very carefully.

It is very obvious that the legislated responsibilities and authority of locally-elected trustees to manage the schools are clearly spelled-out in the Education Act. Trustees are given the clear mandate to make many decisions regarding their local schools, and the right of final decision is theirs and theirs alone.

But this does not mean that many such matters cannot be discussed with teachers, even at the bargaining table.

With the Education Act giving trustees the authority to effectively manage the schools, a management rights clause in the Bill which we will be introducing would be redundant and quite possibly confusing. However, if trustees wish to clarify or further confirm their rights on specific matters, nothing prevents them from attempting to negotiate such a clause in an agreement with their teachers.

Reasonable people bargaining in good faith

Mr. Speaker, I am sincerely convinced that this Bill lays out procedures for successful negotiations by reasonable people bargaining in good faith, with a minimum of confrontation and disruption. It will be put forward not in anticipation of serious future problems, but rather on the premise that teachers and school board members will act in a reasoned and responsible manner.

Indeed, it may be said that this legislation is based on a second set of 3 R's for the 1970's—rights, reason and responsibility.

In assuring certain rights to teachers and to school boards, we expect that the bargaining process will be carried out in a reasoned and responsible fashion by persons of good will and with constant reference to the heavy responsibilities each bears for the education of our young people.

If this is indeed the case, as I hope and expect that it will be, then this legislation will work as a significant and necessary forward step in a return to more harmonious relationships between teachers and school boards in this Province.



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Innovative legislation to regulate teacher-school board negotiations in Ontario

Text of a statement to the
Ontario Legislature by
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